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Attorneys for Defendants

UNITED STATES OF AMERICA,
ex rel. CLIP LLC,
Plaintiff- Relator,

v.

FERRERIA CONSTRUCTION CO., INC,
AMERICAN PILE AND FOUNDATION
LLC, VALIANT ENERGY SERVICES LLC,
VALIANT POWER GROUP, INC d/b/a SM
ELECTRIC, and NELSON FERREIRA,

Defendants,

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DOCKET NO.: 3:23-CV-03834-GC-JBD

Civil Action

CERTIFICATION OF JERRY KILLIAN

I, **JERRY KILLIAN**, of full age, hereby certify as follows:

1. Since 2015, I have served as a Senior Vice President and the Chief Financial Officer of defendant, Ferreira Construction Co., Inc (“FCC”), together with certain of its affiliates. I have over forty years of public accounting experience and I was a certified public accountant, licensed by the State of New Jersey, until I placed my license in retired status effective December 31, 2023.

2. On or about August 11, 2023, the United States Attorney for the District of New Jersey issued Civil Investigation Demands (“CIDs”) to FCC, American Pile and Foundation, LLC (“APF”), Valiant Energy Services, LLC (“VES”), and Valiant Power Group, Inc. d/b/a SM Electric Group, Inc. (“VPG,” and together with FCC, APF, and VES, the “CID Recipients”). The CIDs are virtually identical to one another and state that the U.S. Attorney is investigating whether the CID Recipients violated the False Claims Act in connection with the application for, and receipt of a loan pursuant to the Payroll Protection Program (“PPP”).

3. I, along with CID Recipients’ General Counsel, Christopher Kunkel, were tasked with responding to the CIDs. Shortly after we received the CIDs, Defendants retained Trif & Modugno, LLC and later Mandelbaum Barrett, PC, to serve as outside counsel in connection with responding to the CIDs and litigation. I worked closely with counsel on responding to the CIDs.

4. In connection with preparing responses to the CIDs, at the direction of counsel, I reached out to Michael Andriola, CPA of PKF O’Conner Davies, LLP (“O’Conner Davies”), a public accounting firm that provided professional services to certain defendants. Mr. Andriola was the lead engagement partner at O’Conner Davies for, without limitation, VES’s audits for 2020 and 2021, VPG’s review financials for 2022, and year-end tax returns for VES, VPG, and VPS for 2020, 2021, and 2022. I have known Mr. Andriola since approximately 2010. Mr. Andriola and I previously worked together as partners at Wiss & Company, LLP, an accounting firm. Mr. Andriola told me on prior occasions that he had experience with the SBA’s PPP loan program.

5. On the morning of September 7, 2023, I reached out to Mr. Andriola by email seeking his help responding to the CIDs, identifying same as a PPP audit. Mr. Andriola called me on the telephone within minutes of my email and we spoke for nearly a half hour. During that

telephone call I informed Mr. Andriola of an audit related to the PPP loans and CID Recipients. I subsequently requested his availability for a call on September 8, 2023, to further discuss the CIDs. Mr. Andriola told me that he would be available for the call adding that he was “the PPP go to guy for O’Connor Davies.”

6. I sent a Microsoft Teams invite to Mr. Andriola for a video conference with Mr. Kunkel and Louis Modugno on September 8, 2023. Mr. Andriola knew the purpose of the meeting was to discuss the audit related to the PPP loans and that Mr. Kunkel and Mr. Modugno were attorneys for Defendants.

7. On September 8, 2023, starting at 11:00 a.m. Mr. Andriola, Mr. Kunkel, Mr. Modugno and I participated in an approximately two-hour Microsoft Teams video conference wherein we discussed the CIDs, certain Defendants PPP loans, certain Defendants’ confidential financial information, Defendants’ and counsel’s work product and mental impressions, and strategy in responding to the CIDs.

8. Mr. Andriola agreed to work with counsel and me and perform his own analysis based on confidential financial data that we provided to him after the meeting.

9. Following the Microsoft Teams conference, Mr. Andriola sent me a secure portal link to upload Defendants’ confidential financial information. I uploaded the confidential information to the link for Mr. Andriola to receive and review.

10. Mr. Andriola performed his own analysis, and on September 9, 2023, shared his analysis.

11. On September 10, 2023, I acknowledged receipt of the information Mr. Andriola provided to me and notified him that I would be looking for certain additional information to send to him for his review.

12. On September 11, 2023, I sent Mr. Andriola additional confidential information referred to in my September 10th email.

13. On September 11, 2023, at approximately 3:30 p.m., Mr. Andriola, Mr. Modugno and I participated in an approximately one-hour Microsoft Teams video conference meeting. Therein, we again discussed certain Defendants' PPP loans and forgiveness of same, Defendants' confidential information, shared work product, counsel's mental impressions, Mr. Andriola's analysis, and strategy for responses to the CIDs.

14. On or about November 7, 2023, I learned that Mr. Andriola was the individual who filed this matter through a limited liability company. At no time during my telephone call with him on September 7th, in our Microsoft Teams meetings with counsel on September 8th and September 11th, or in any of our written exchanges did Mr. Andriola advise me or counsel that he filed this matter through Plaintiff on July 18, 2013, nearly two months prior to our communications or that his interests were directly adverse to Defendants.

CERTIFICATION

I hereby certify that the facts herein are true to the best of my knowledge. I am aware that if anything contained herein is willfully false, I am subject to punishment.



JERRY KILLIAN

DATED: 12-13-2024